

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PUGET SOUNDKEEPER ALLIANCE, SIERRA
CLUB, and IDAHO CONSERVATION
LEAGUE,

Plaintiffs,

v.

ANDREW WHEELER,¹ in his official capacity
as Acting Administrator of the United States
Environmental Protection Agency, and R.D.
JAMES,² in his official capacity as Secretary of
the Army for Civil Works,

Defendants.

Case No. 2:15-cv-01342-JCC

DECLARATION OF PETER C. HAASE

I, Peter C. Haase, declare the following on the basis of personal knowledge to which I am
competent to testify:

1. I am a member of Puget Soundkeeper Alliance (Soundkeeper), a plaintiff in this
case, and have been, on and off, since 2013. Soundkeeper represents my interests and those of

¹ Please note that pursuant to Fed. R. Civ. P. 25(d)(1), Andrew Wheeler, Acting Administrator of the U.S. Environmental Protection Agency, is substituted as a defendant for Scott Pruitt, who was substituted for Gina McCarthy.

² Please note that pursuant to Fed. R. Civ. P. 25(d)(1), R.D. James, Secretary of the Army for Civil Works, is substituted as a defendant for Jo-Ellen Darcy.

1 others like me who use and enjoy Puget Sound and its tributaries. I actively support
2 Soundkeeper via monetary donations, as well as donations of my time as a volunteer watchdog.

3 2. I am a member of Soundkeeper because I support the organization's work to
4 protect and preserve Puget Sound by monitoring, cleaning up and preventing pollutants from
5 entering its waters. I am familiar with Soundkeeper's work and mission and believe that the
6 organization has an impact on improving water quality in Puget Sound. I joined Soundkeeper
7 when I learned of the group's citizen watchdog work, including monitoring for pollution and
8 detecting violations. I feel this is a very important role and I want to be a part of the effort. I
9 also value Soundkeeper's advocacy work. I have strong interests in protecting the marine waters
10 of Puget Sound and the entire Puget Sound watershed including freshwater tributaries and
11 wetlands, and I believe that Soundkeeper protects those interests. I support Soundkeeper's work
12 to enforce the Clean Water Act on behalf of citizens like me, and their work to improve pollution
13 discharge permits. I also support Soundkeeper's efforts to advocate for stronger policies and
14 regulations impacting water quality, including challenging national rules where necessary to
15 preserve our ability to enforce laws and protect our waters, such as in this case.

16 3. I also volunteer with North Sound Baykeeper in a citizen watchdog capacity to
17 monitor for and document pollution in Swinomish Channel, Burrows Bay, and Big Indian
18 Slough which are parts of Puget Sound. Baykeeper works directly with Soundkeeper, following
19 the same principles of citizen action and enforcement of environmental laws. With the broad
20 geographic scope of Puget Sound's waters and shoreline, both groups are needed in our region
21 and I enjoy working with both.

22 4. I learned at a young age that our waters are an important part of our landscape. I
23 grew up in Traverse City, Michigan, which is situated on the shores of Lake Michigan and Grand
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1 Traverse Bay. It was relatively undeveloped at that time, and provided endless opportunities for
2 exploring natural spaces and waterways. As a child, I spent a lot of time on lakes, streams, bays
3 and lakes – swimming, playing, exploring and learning about the water habitats. It was well
4 understood in my family and in our community that our waters are connected and they all need
5 our protection. These early memories and experiences around the water had a huge impact on
6 my lasting sense of connection to our nation's waters, and the importance of keeping them clean
7 and intact for future generations so that they can enjoy what I did.

8 5. I continue to use and enjoy our nation's waters as an adult. In 1962, I earned an
9 undergraduate degree in Mathematics and Education from Michigan State University. I then
10 earned a Master's degree in Mathematics from Central Michigan University in 1966. I was a
11 school teacher in Michigan for four years. When I received a job offer to work for Boeing, I
12 decided to move to Seattle. My first visit to the Puget Sound region was for my interview with
13 Boeing in May 1966. The region immediately appealed to me. I thought it was a wonderland of
14 blue skies, blue water, and gorgeous scenery. The biggest draw for me was Puget Sound's "big
15 water." Having grown up around big water, it was a requirement for me to settle down some
16 place that provided a similar environment where I could be surrounded by vibrant aquatic
17 ecosystems and access to ample shoreline.

18 6. I have lived near large bodies of water ever since. I lived in Seattle for almost 30
19 years. At Boeing, I was a Manager in the Computing Department at the Renton facility. I retired
20 from this job in 1996. While living in Seattle, I recreated on and toured and fished on Puget
21 Sound. Later, I lived on the Pine Lake plateau above Lake Sammamish in Issaquah. As
22 development moved in to the Pine Lake area, I could see the negative impacts on the watershed
23 and I began to worry about the small, local streams and the lakes they fed. I currently reside in
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1 the Padilla Bay watershed, on the slopes of Bay View Ridge. I have lived here for 14 years.

2 7. My family enjoys swimming and other types of water-based recreation. My wife
3 and I married in 1973 in Seattle, and we have two children. Our family spent a lot of time
4 together on the water. When the kids were between the ages of 8 and 10, we bought a thirty foot
5 Newport family cruising sailboat, which we owned and used for the next 30 years. We moored
6 the boat on Lake Washington at first, and then up in Anacortes on the Sound for a time. Lake
7 Washington is in the Puget Sound watershed, connected to the Sound by the Lake Washington
8 ship canal. My family and I regularly sailed from the Central Sound to and around the San Juan
9 Islands, and around Anacortes. While we were on the water, we would watch wildlife including
10 sea birds, fish, otters, dolphins and occasionally a Minke whale. Throughout the 1980s and
11 1990s, I regularly fished for salmon from our sailboat south of Whidbey Island, in Saratoga
12 Passage, and around the San Juan Islands. We also regularly crabbed for Dungeness Crabs
13 around Guemes Island, just north of Anacortes, and in Padilla Bay. I always enjoyed the
14 scenery, wildlife and getting away from the business of the city. The kids really loved being on
15 the boat, on the water, and exploring the shorelines wherever we visited. Access to Puget Sound
16 waters was deeply important to our family culture and formative for our children in the same
17 way it was for me to grow up around water in the Midwest.

18 8. I sold the sailboat in 2009 but continue to recreate around Puget Sound's
19 waterways and shorelines. I enjoy watching wildlife near our home and I frequently hike, walk,
20 and bicycle near the water. I regularly go crabbing, beach walking, and lead demonstrations
21 along the shorelines of Padilla Bay near my home. I also join friends on their boats in Puget
22 Sound or on other waters in the Puget Sound watershed every chance I get. I plan to continue
23 recreating in and around Puget Sound for as long as I am able, and I hope that my children and
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1 grandchildren will be able to continue sharing the experiences on the water that are so important
2 to our family.

3 9. Because of my personal interest in protecting wildlife, aquatic habitat, and
4 recreational users of our waters, since retiring and relocating up to Skagit County, I have
5 undertaken several major volunteer roles related to protecting water quality in Puget Sound and
6 its freshwater tributaries.

7 10. In 2002, I got involved in tree planting along riparian areas of streams and rivers
8 in the Skagit River watershed with the Skagit Land Trust and the Skagit Fisheries Enhancement
9 Group. I think it is really important to have trees in riparian areas because they shade streams,
10 which keeps the water cool to support salmon and other native wildlife. Trees also prevent
11 erosion, provide a barrier to keep large livestock out of streams, foster habitat for bugs and other
12 fish food, and, in the long run, sequester carbon. I have been planting trees to protect the banks
13 of streams and rivers for almost thirteen years and I plan to continue this work as long as I am
14 able.

15 11. In the winter, I volunteer with a large group that wades through local streams to
16 count spawning salmon and survey for pre-spawn mortality. We report the returning fish count
17 to Skagit Fisheries Enhancement Group. I started doing this in 2010, and plan to continue as
18 long as I am able. My observations have helped me to understand the stream conditions that are
19 necessary components of successful salmon spawning. I understand that salmon juveniles rely
20 on clean and healthy wetlands and estuaries in the lower parts of the Puget Sound watershed as
21 they transition to adulthood, and that as adults salmon live and feed in Puget Sound. To
22 complete their lifecycle, salmonids need clean streams, rivers, and marine waters. I have seen
23 that salmon tend to spawn in areas that have pools where the salmon can rest, in-stream
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1 structures that slow water to prevent substrate scouring, shore-side planting for shade to control
2 temperature and slow runoff, and clean water. The data I collect is in areas that have been
3 restored to determine if restoration is working and resulting in increased salmon spawning, and it
4 also gives us a better understanding of the health of the entire watershed the salmon depend on. I
5 am reassured to see that we can take action to restore and protect our waters. I also understand
6 that protecting salmon habitat is less expensive and less risky than trying to restore or repair
7 damage that has already been done.

8 12. In 2012, I began volunteering with the Department of Natural Resources in
9 Fidalgo Bay Aquatic Reserve, and with the Northwest Straits Foundation to monitor shoreline
10 restoration sites in Skagit County. I survey salt-water shorelines in Fidalgo Bay Aquatic Reserve
11 for surf smelt spawning and plan to continue helping with the surveys for as long as I am able. I
12 understand that smelt and other forage fish are really important to the marine food chain, and that
13 their habitat has been under-protected in the past. The surveys started because smelt populations
14 were declining and there was a great need for data and awareness around their plight. The areas
15 I've monitored are very healthy; they have been restored and we have documented increased
16 smelt spawning and smelt populations. My experience doing this work provides strong support
17 in my mind for the benefits of shoreline restoration in formerly degraded areas. I feel a lot of
18 excitement around increased smelt populations. Restoration is important, but protecting these
19 waters in the first place is a far superior approach to repair and restoration after the fact.

20 13. I used to volunteer with Padilla Bay National Estuarine Research Reserve, which
21 is managed by Washington State Department of Ecology and the Skagit County Conservation
22 District. The group I volunteered with was called the "Stream Team." Stream Team volunteers
23 monitor ambient pollutant levels in local waterways. We measured elevated levels of fecal
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1 coliform bacteria up and down the freshwater tributaries to Padilla Bay. Volunteers have
2 documented bacteria levels for 17 years now and I worry that the volunteers will continue to find
3 elevated levels of bacteria during their surveys.

4 14. The Joe Leary Slough, one of the main freshwater sources for the Padilla Bay
5 National Estuarine Research Reserve, flows right through my property. My wife and I enjoy
6 watching the ducks in the slough and from time to time we see herons and otters. My property is
7 a large rural residential plot with my house, an unattached garage, and a small hobby barn that I
8 use for storage. I don't have any livestock; the only animal living on my property is my cat. But
9 my property is surrounded on three sides by berry, potato, and seed crop agricultural facilities.
10 Crops are rotated and traded to accommodate different types of food crops. I also have cattle
11 grazing operations near my property. There are very few buffers around Joe Leary Slough, and
12 they are almost always too narrow to provide much protection. I don't think there are many fish
13 where I live, probably because the habitat isn't as healthy as it could be. When it rains, it is very
14 obvious that water runs off the fields, washing pesticides, herbicides and manure into Joe Leary
15 Slough. Joe Leary Slough then flows into Padilla Bay, carrying the pollutants with it. I really
16 worry about that because Padilla Bay is an estuary that supports a lot of fish and other wildlife.

17 15. In the nearby town of Bay View, on Padilla Bay, there is a state park with a
18 beach. The beach has been closed to swimming several times in the past because of excess
19 bacteria in the salt water. I strongly suspect that the bacteria are carried to Padilla Bay by small
20 tributaries in the watershed. It's a shame for the families that use the park, and kids that would
21 otherwise want to swim there, including my family and our friends.

22 16. I am aware of many threats to Puget Sound including development that affects
23 shorelands and wetlands, pollutant discharges, and habitat alteration from logging and
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1 agriculture; and I worry about our collective ability to adequately address the sources of
2 pollution and preserve our waterways. The Clean Water Act, as I understand it, is an important
3 component of the equation and I believe it is one of our most important and successful
4 environmental laws. It was a long battle to get the Clean Water Act in place, and it marks a
5 milestone in our country's history of environmental protection. I believe the Clean Water Act
6 has made a huge impact on cleaning up nasty messes in waters around the county, including
7 some in the Puget Sound watershed. But, I also believe it will only continue to be effective if it
8 can be used to protect a wide range of waters, including the waters in all of our backyards.

9 17. My volunteer work and personal observations have helped me to better
10 understand the relationship between activities that take place in a watershed and water quality
11 downstream. I understand that waters in an ecosystem are connected and that what happens in
12 one affects the whole. Joe Leary Slough and the areas I have observed during my volunteer
13 work are a small portion of the watershed, but they affect the Padilla Bay estuary and water
14 quality in Puget Sound. From my observations, I understand that activities that pollute the
15 waters in any of the small tributaries or wetlands in the watershed also harm the waters of Padilla
16 Bay and Puget Sound. I believe that to protect water quality for wildlife, habitat, and
17 recreational use in Padilla Bay and Puget Sound, we need to protect all of the tributaries,
18 wetlands, and headwaters upstream.

19 18. I am familiar with EPA's Clean Water Rule that it published in 2015. I have also
20 read numerous articles from Waterkeeper and similar organizations with Clean Water Act
21 expertise explaining the implications of the Clean Water Rule. Based on what I have read, I
22 understand that the rule sought to define waters of the U.S. in advance in order to protect all
23 uses—from fishing to drinking to recreation – of our waters as intended by the Clean Water Act.

1 I believe based on my experience over the years with Puget Sound and all its tributaries that
2 these definitions would help avoid conflict and ensure the protections that I value personally and
3 in my volunteer work. I believe that broad-based and clear definitions of waters that are entitled
4 to Clean Water Act protection is the critical first step in ensuring those protections.

5 19. I am also familiar with EPA's most recent rule which delays the applicability of
6 the Clean Water Rule for a period of two years. I am concerned that the loss of applicability of
7 the Clean Water Rule for two years will result in fewer waters being protected under the Clean
8 Water Act. I am particularly concerned about the loss of the clear definitions of adjacent waters
9 under the Clean Water Rule, because I worry that many wetlands and other important smaller
10 waters that would have been protected as adjacent waters under the Clean Water Rule will no
11 longer be considered adjacent. In particular, I fear that Big and Little Indian Sloughs, NoName
12 Creek, and the Joe Leary Slough which all provide much of the fresh water into Padilla Bay will
13 receive even less protection to the detriment of the Bay. If its water quality degraded, it would
14 lessen my enjoyment of crabbing, beach walking, and providing guided demonstrations along the
15 shorelines. The Clean Water Act is designed to protect waters all over the nation, including
16 wetlands, tributaries, and headwater streams, from pollution that degrades our waters.

17 20. Today I have 13 grandchildren. I want them to grow up in a healthy watershed so
18 that they can swim and play in the water and learn to appreciate aquatic life, like I did. My hope
19 for my grandchildren and their children and grandchildren is that they will not have to be
20 constantly worried about the fact that our waters are in trouble. I want my grandchildren to grow
21 up knowing that all of our waters, whatever their type and locations, are protected by our
22 country's laws. We need to prevent pollution and destruction of our waters and, where the
23 messes are already made, they must be cleaned up. We simply must keep standing up for this. If
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1 some waters lose Clean Water Act protection under the Applicability Date Rule, I worry that
2 these waters risk falling to the wayside and being used as a dumping ground. This will harm
3 other waters, wildlife, and recreational and aesthetic interests of people like me and my family.
4 We simply deserve better.

5 21. The injuries to my interests are a direct result of EPA's new Applicability Date
6 Rule. My interests in the health and vitality of Puget Sound will only be protected if all of the
7 tributaries, wetlands, and headwaters in the Puget Sound watershed are protected by the Clean
8 Water Act because these waters are rarely "isolated" and are an integral part of a healthy
9 ecosystem.

10 22. Injury to my interests can be redressed by the courts through issuance of an order
11 vacating the Applicability Date Rule and reinstating the applicability of the Clean Water Rule.

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13 I declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct.

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16 Executed this 21 of July, 2018, at Bow, Washington.

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19 PETER C. HAASE